

AMENDED IN ASSEMBLY MAY 3, 2000

AMENDED IN ASSEMBLY APRIL 5, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

## ASSEMBLY BILL

No. 2559

Introduced by Assembly Member Cardoza

February 24, 2000

---

~~An act to amend Section 1043 of the Evidence~~ *An act to amend Section 832.7 of the Penal Code, relating to personnel records.*

### LEGISLATIVE COUNSEL'S DIGEST

AB 2559, as amended, Cardoza. Personnel records: peace officers: ~~evidence.~~

*Under existing law, peace officer personnel records and other specified records, or information from those records, are confidential and may not be disclosed in a criminal or civil proceeding except by discovery pursuant to specified provisions of law.*

*This bill would make the above prohibition against disclosure of peace officer personnel records and information from those records except as specified, applicable to the department or agency that employs the peace officer.*

~~(1) Existing law sets forth the procedure to discover or compel disclosure of peace officer personnel records, as specified.~~

~~This bill would limit that procedure to motions by a criminal defendant or his or her attorney for discovery or disclosure of~~

~~peace officer personnel records; and would enact a separate procedure for discovery or disclosure of peace officer personnel records and records of citizen complaints sought by a local prosecutor or the Attorney General which would limit such discovery or disclosure to records or information from records sought for the purpose of complying with the duty to disclose exculpatory evidence to the defense. The bill would further limit this disclosure to notification of the disposition of complaints in these records which are determined by the custodian of the records to contain evidence of sustained unlawful conduct by the peace officer in the course of duty.~~

~~The bill would impose a state-mandated local program by requiring new duties of custodial officers of peace officer personnel records.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes-no.~~

*The people of the State of California do enact as follows:*

1    ~~SECTION 1. Section 1043 of the Evidence Code is~~  
 2    *SECTION 1. Section 832.7 of the Penal Code is*  
 3    *amended to read:*  
 4    832.7. (a) Peace officer personnel records and  
 5    records maintained by any state or local agency pursuant  
 6    to Section 832.5, or information obtained from these  
 7    records, are confidential and shall not be disclosed *by the*  
 8    *department or agency that employs the peace officer in*  
 9    any criminal or civil proceeding except by discovery

1 pursuant to Sections 1043 and 1046 of the Evidence Code.  
2 This section shall not apply to investigations or  
3 proceedings concerning the conduct of police officers or  
4 a police agency conducted by a grand jury, a district  
5 attorney's office, or the Attorney General's office.

6 (b) Notwithstanding subdivision (a), a department or  
7 agency shall release to the complaining party a copy of his  
8 or her own statements at the time the complaint is filed.

9 (c) Notwithstanding subdivision (a), a department or  
10 agency which employs peace officers may disseminate  
11 data regarding the number, type, or disposition of  
12 complaints (sustained, not sustained, exonerated, or  
13 unfounded) made against its officers if that information  
14 is in a form which does not identify the individuals  
15 involved.

16 (d) Notwithstanding subdivision (a), a department or  
17 agency which employs peace officers may release factual  
18 information concerning a disciplinary investigation if the  
19 peace officer who is the subject of the disciplinary  
20 investigation, or the peace officer's agent or  
21 representative, publicly makes a statement he or she  
22 knows to be false concerning the investigation or the  
23 imposition of disciplinary action. Information may not be  
24 disclosed by the peace officer's employer unless the false  
25 statement was published by an established medium of  
26 communication, such as television, radio, or a newspaper.  
27 Disclosure of factual information by the employing  
28 agency pursuant to this subdivision is limited to facts  
29 contained in the peace officer's personnel file concerning  
30 the disciplinary investigation or imposition of disciplinary  
31 action that specifically refute the false statements made  
32 public by the peace officer or his or her agent or  
33 representative.

34 (e) The department or agency shall provide written  
35 notification to the complaining party of the disposition of  
36 the complaint within 30 days of the disposition.

37 The notification described in this subdivision shall not  
38 be conclusive or binding or admissible as evidence in any  
39 separate or subsequent action or proceeding brought

1 before an arbitrator, court, or judge of this state or the  
2 United States.

3 (f) Nothing in this section shall affect the discovery or  
4 disclosure of information contained in a peace officer's  
5 personnel file pursuant to Section 1043 of the Evidence  
6 Code.

7  
8  
9  
10  
11  
12  
13

**All matter omitted in this version of the  
bill appears in the bill as amended in the  
Assembly, April 5, 2000 (JR 11)**

